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Counsel for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

TECHNOLOGY PROPERTIES LIMITED)
LLC and MCM PORTFOLIO LLC,) Case Number: C 14-03640-CW
)
Plaintiffs,) **PLAINTIFFS' RESPONSE IN**
) **OPPOSITION TO DEFENDANTS'**
vs.) **ADMINISTRATIVE MOTION TO PER**
) **CAPITA SPLIT OF TECHNICAL**

1	CANON, INC., et al.,	)	ADVISOR FEE
2	Defendants.)	
3	TECHNOLOGY PROPERTIES LIMITED)	
4	LLC and MCM PORTFOLIO LLC,	)	Case Number: C 14-03641-CW
5	Plaintiffs,	)	PLAINTIFFS' RESPONSE IN
6	vs.	)	OPPOSITION TO DEFENDANTS'
7	FALCON NORTHWEST COMPUTER	)	ADMINISTRATIVE MOTION TO PER
8	SYSTEMS, INC.,	)	CAPITA SPLIT OF TECHNICAL
9	Defendant.	)	ADVISOR FEE
10	TECHNOLOGY PROPERTIES LIMITED)	
11	LLC and MCM PORTFOLIO LLC,	)	Case Number: C 14-03643-CW
12	Plaintiffs,	)	PLAINTIFFS' RESPONSE IN
13	vs.	)	OPPOSITION TO DEFENDANTS'
14	HEWLETT-PACKARD COMPANY,	)	ADMINISTRATIVE MOTION TO PER
15	Defendant.	)	CAPITA SPLIT OF TECHNICAL
16	TECHNOLOGY PROPERTIES LIMITED	)	ADVISOR FEE
17	LLC and MCM PORTFOLIO LLC,)	
18	Plaintiffs,	)	PLAINTIFFS' RESPONSE IN
19	vs.	)	OPPOSITION TO DEFENDANTS'
20	NEWEGG INC., et al.,	)	ADMINISTRATIVE MOTION TO PER
21	Defendants.	)	CAPITA SPLIT OF TECHNICAL
22	TECHNOLOGY PROPERTIES LIMITED	)	ADVISOR FEE
23	LLC and MCM PORTFOLIO LLC,)	
24	Plaintiffs,	)	PLAINTIFFS' RESPONSE IN
25	vs.	)	OPPOSITION TO DEFENDANTS'
26	SEIKO EPSON CORPORATION, et al.,	)	ADMINISTRATIVE MOTION TO PER
		)	CAPITA SPLIT OF TECHNICAL
		)	ADVISOR FEE

1	Defendants.)
2	TECHNOLOGY PROPERTIES LIMITED)
3	LLC and MCM PORTFOLIO LLC,	) Case Number: C 14-03647-CW
4)
5	Plaintiffs,	) PLAINTIFFS' RESPONSE IN
6	vs.	) OPPOSITION TO DEFENDANTS'
7	SHUTTLE INC., et al.,	) ADMINISTRATIVE MOTION TO PER
		) CAPITA SPLIT OF TECHNICAL
	Defendants.	) ADVISOR FEE

8 RELIEF SOUGHT

9 Pursuant to Civil Local Rule 7-11(b), Plaintiffs oppose Defendants' Administrative
10 Motion Objecting to Per Capita Split of Technical Advisor Fee. The Court's Order Appointing
11 Technical Advisor Kwan Chan orders the parties to pay the fees "on a per capita basis." Doc.
12 289 at 4, ¶ 7 (Case 4:14-cv-03640-CW). "Each party shall bear the fees and costs of the
13 Technical Advisor on a per capita basis, payable in advance." *Id.*

15 Plaintiffs and Defendants agree that a per capita basis *does not* mean the fees should be
16 split 50/50 between Plaintiffs and Defendants. Therefore, Defendants object to the "per capita"
17 allocation and seek a 50/50 split. Plaintiffs' position is that the parties should follow the Court's
18 Order and pay "on a per capita basis." Defendants' request for this Court to change its April 10,
19 2015 Order should be denied. However, given the parties' disagreement and the short time
20 before claim construction, Plaintiffs agree that clarification is necessary.

22 ARGUMENT

23 The parties should follow the Court's Order and pay "on a per capita basis." In line with
24 the Court's Order, Plaintiffs suggested that the \$100,000 initial deposit be divided seven ways
25

with Plaintiffs paying one-seventh and each Defendant or Defendant group paying one-seventh.

Therefore, Plaintiffs wired their one-seventh share (\$14,285.72) to Mr. Chan's account.¹

Plaintiffs informed Defendants of their willingness to agree to other allocations in line with the Court Order to pay on a per capita basis. Doc. 297-1 at Ex. B. For example, there are two plaintiffs, and there are nine named defendants in the six defendant groups. A per capita allocation among the eleven entities would result in eleven shares of \$9,090.91. Plaintiffs would pay \$18,181.82. Defendants could divide the remainder “as they see fit,” and Plaintiffs understand that this would also be in line with the Court’s Order. Doc. 289 at 4, ¶ 7.

However, Defendants did not respond or propose any idea. Defendants proceeded to file their objections to the per capita allocation, because they did not anticipate a per capita allocation at the November 19, 2014 case management conference. Defendants' objections and request should be denied. A per capita allocation complies with the Court's Order. Further, a per capita basis is an equitable allocation of the fees as Mr. Kwan Chan will benefit all parties equally by serving as a technical advisor.

Dated: April 23, 2015

Respectfully submitted,

/s/ Benjamin R. Askew

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¹ Presently, TPL does not have authority or cash collateral from the pending Chapter 11 bankruptcy proceeding to pay more than a “per capita” split. However, TPL will certainly do everything within its power to quickly obtain more cash collateral should the Court grant Defendants’ request and order a 50/50 split.

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21 *ATTORNEYS FOR PLAINTIFFS*
22 *TECHNOLOGY PROPERTIES LIMITED LLC and*
23 *MCM PORTFOLIO LLC*

24 **CERTIFICATE OF SERVICE**

25 The undersigned certifies that a copy of the foregoing was served on counsel for all
26 parties of record on April 23, 2015 via the Court's CM/ECF system.

27 /s/Benjamin R. Askew